IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

FIRST APPEAL No 7597 of 1999

with

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For Approval and Signature:

Hon'ble MR.JUSTICE M.H.KADRI
and
Hon'ble MR.JUSTICE D.P.BUCH

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

STATE OF GUJARAT

Versus

GUNVANTBHAI PRABHATBHAI

Appearance:

Mr V M Pancholi, AGP for Petitioners

MR RN SHAH for Respondent No. 1

CORAM : MR.JUSTICE M.H.KADRI
and
MR.JUSTICE D.P.BUCH

Date of decision: 01/08/2000

ORAl (COMMON) JUDGMENT (per Kadri, J.)

The appellants, by way of filing these appeals under Section 54 of the Land Acquisition Act, 1894 (for short 'the Act') read with section 96 of the Code of Civil Procedure, 1908, have challenged the common judgment and award passed by the learned Civil Judge (SD), Godhra, District Panchmahals dated April 13, 1999 in Land Acquisition Reference No.378 and 379 of 1994, by which judgment and order, the learned Civil Judge (SD), Godhra awarded additional compensation at Rs.11.50 paise per sq. metre for the acquired lands of the appellants situated at Village Gariyal, Taluka, Halol, District Panchmahals.

2. The land of the respondent-claimants situated at Village Gariyal, Taluka, Halol, District Panchmahals are placed under acquisition for public purpose of Dev Canal Irrigation Scheme. Notification under Section 4(1) of the Act was published on October 15, 1987. After following the usual procedure under the Act, the Land Acquisition Officer made his award dated July 29, 1988 and awarded compensation at Rs.20,000/- per Hectare. The claimants being dissatisfied with the award of the Land Acquisition Officer, filed application under Section 18 of the Act requiring the Land Acquisition Officer to refer their applications to the District Court at Panchmahals for determination of market value of the acquired land. Accordingly the applications were referred to the District Court wherein the applications came to be numbered as LAR No.378 and 379 of 1994. Before the Reference Court, the respondent-claimants claimed compensation of the acquired lands at Rs. 15/per sq. metre.

3. The Reference Court framed common issues in LAR No.379/94 at Exh.11. To substantiate the claim, the claimants examined Shri Gunvantsinh Prabhatsinh at Exh.20 who was claimant of LAR No.378/94. The said witness produced 7/12 extract of the acquired lands and further produced copies of the judgment and award rendered in LAR No.238/88 of the Court of Jt.District Judge, Godhra in respect of the lands of the same village Gariyal at exh.15. Copy of the judgment and order of the High Court in appeal filed against the award made in LAR No.238/88 was produced at Exh.16. The claimants also produced copies of previous award made in LAR No.118/92 with regard to the lands of the same village at Gariyal at Exh.17. Copy of the judgment and award of the High Court

in appeal filed against the award rendered in LAR No.118/92 was produced at Exh.18. Copy of the order of the Supreme Court by which the SLP was dismissed, was produced at Exh.19. The claimant Gunvantsinh Prabhatsinh had deposed on oath at Exh.20 that the present acquired lands and the lands which were the subject matter of the previous award were of the same village and were similar in nature and were having the same fertility and having the same advantageous features wherein the agriculturists were raising similar type of crops. He further deposed that the agriculturists were getting net income of Rs.5,000/- out of agricultural produce. In view of the market value determined in previous award, the Reference Court determined the market value of the present acquired lands at Rs.13.50 paise per sq. metre and awarded statutory benefits in favour of the respondent-claimants which is given rise to filing of these appeals.

As common questions of facts and law are involved in these appeals, the same are disposed of by this common order.

4. Learned Advocate for the appellants and respondents have taken us through the entire documents produced on record of this case. The contention raised by the learned Advocate for the appellants that the Reference Court has erred in placing reliance on the previous award of the Reference Court, Godhra in LAR No.238/88 and 118/92 in determining the market value of the present acquired lands, deserves to be rejected. Lands of previous awards were in respect of the same village Gariyal wherein the market value was determined at the same rate. In our view, the Reference Court has not erred in placing previous award for determination of market value of the acquired lands. The claimants have established that the previous lands and the present acquired lands were in all respects similar and were having high fertility. The agriculturists were growing similar types of crops. In our view, the Reference Court has not committed any error in placing reliance on the previous award of the same village which were in all respects, relevant and comparable for the determination of market value of the present acquired lands. We therefore, confirm the market value of the present acquired lands at Rs.13.50 paise per sq. metre as on 15.10.1987. The statutory benefits extended in favour of the claimants do not call for interference by this Court. However, it is clarified that the claimants shall not be entitled to solatium on the additional amount payable under Section 23(1-A) and no interest shall be paid on the amount of solatium as per the decision of the Supreme

Court in the case of Prem Nath Kapur v. National Fertilizers Corporation of India, (1996(2)SCC 71).

With this clarification, we dismiss these two appeals. There shall be no order as to costs.

[M H Kadri, J.]

[D P Buch, J.]

msp.